



July 10, 2015

RECEIVED JUL 13 2015 *Ed ESS#2*

Margaret Herring
Civil Investigator
U.S. EPA, Region 5
Superfund Division
Enforcement and Compliance Assurance
Branch (SE-5J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

**VIA FEDERAL
EXPRESS**

Leslie Patterson
Remedial Project Manager
Remedial Response Branch 2
U.S. EPA
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Thomas Nash
U.S. EPA, Region 5
77 West Jackson Boulevard
Mail Code – C-14 J
Chicago, Illinois 60604-3507

Re: Special Notice Letter and Request for Information Package for the South Dayton
Dump & Landfill Site

Dear Sir or Madam,

This letter will serve as a response to the Special Notice Letter and Request for Information for the South Dayton Dump & Landfill Site (the "Site") dated January 16, 2015 and directed to L.M. Berry and Company LLC.

As previously advised, L.M. Berry and Company was incorporated on November 19, 1960. On May 9, 2012, L.M. Berry and Company was converted from a Georgia corporation to a Delaware LLC under the name of L.M. Berry and Company LLC. As of December 31, 2014, L.M. Berry and Company LLC, merged with and into YP Southeast Advertising & Publishing LLC, a Delaware limited liability company, which then changed its name to YP Advertising & Publishing LLC. As a result of the merger, under Delaware law, L.M. Berry and Company LLC ceased to exist as a separate limited liability company. This response is submitted by YP Advertising & Publishing LLC on behalf of the former L.M. Berry and Company LLC (hereinafter also referred to as "Respondent").

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Based upon information and belief, the only evidence EPA has to identify L.M. Berry and Company LLC as a PRP for the Site is the deposition transcript of Edward Grillot. Mr. Grillot was deposed on December 16 and 17, 2013 in Hobart Corporation et al. v. The Dayton Power and Light Company, et al., U.S. District Court, Southern District of Ohio, Western Division, Case No. 3:13-cv-00115. Based on his deposition, it is clear that Mr. Grillot had no direct, personal knowledge or information to establish that L.M. Berry and Company LLC disposed of, or arranged for the disposal of, any wastes, let alone hazardous wastes at the Site at any time. Further, based on extensive discovery in Case No. 3:13-cv-00115, and all available information, there are no documents in the possession, custody or control of the U.S. EPA, the Hobart plaintiffs or Respondent L.M. Berry and Company, LLC, including, but not limited to, dump receipts, shipping manifests, invoices, receipts, contracts, logs, disposal tickets or other documents, that would support the assertion that Respondent arranged for the disposal of wastes, let alone hazardous wastes, at the Site at any time.

Attached are the following:

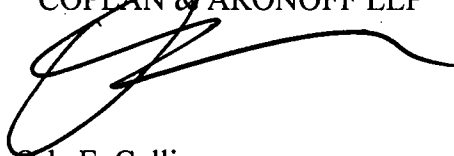
1. A summary of the deposition transcript of Edward Grillot in Case No. 3:13-cv-00115;
2. Portions of the transcript of Edward Grillot in Case No. 3:13-cv-00115.

Respondent is in the process of finalizing Responses to the Requests For Information. Respondent expects to finalize those responses in the next week or two and respectfully requests a short extension of time for the response.

Accordingly, based upon all available information, L.M. Berry and Company LLC denies that it contributed hazardous substances to the Site at any time, denies that it is a potentially responsible party ("PRP") and denies responsibility for remediation costs incurred with respect to the Site. Accordingly, L.M. Berry and Company LLC declines to participate as a PRP for the Site.

Very truly yours,

BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP



Orla E. Collier

OEC:tsh

cc: Maureen Hernandez Sutton
(Via email)

**SUMMARY OF DEPOSITION OF EDWARD
GRILLOT – CASE NO. 3:13-CV-00115**

The only person identified by U.S. EPA or the Hobart Plaintiffs who has even remotely suggested that L.M. Berry and Company LLC (“L.M. Berry”) might have disposed, or arranged for the disposal, of any waste at the South Dayton Dump (the “Site”) was Edward Grillot. Mr. Grillot was deposed on December 16 and 17, 2013 in Case No. 3:13-cv-00115 and excerpts of his deposition are attached. Mr. Grillot was employed from time to time as a “salvage man” at the South Dayton Dump during the period of 1960 to 1969. He was eight years old when he started work at the South Dayton Dump in 1960. He was never an officer or director and was never involved in management at the Site. (Depo. of Grillot, Vol. II, TR 12, 13). Mr. Grillot had no responsibility for accounting, billing or operations at the Site. He was simply a “salvage man”. (Depo. of Grillot, Vol. II, TR. 24).

Mr. Grillot testified on direct that L.M. Berry delivered only (1) used telephone books and (2) wood skids to the Site. (Depo. of Grillot, Vol. I, TR. 95, 96). For purposes of CERCLA, however, there is a significant distinction between merely delivering materials to the South Dayton Dump and actual disposal at the Site. The South Dayton Dump was both a recycling facility and a landfill. Mr. Grillot testified that, irrespective of the source, used phone books were typically not disposed of in the South Dayton Dump but were sent offsite for recycling. The only exception would be “wet” phone books that were not salvageable. (Depo. Of Grillot, Ex. E, TR. 28-29). The same would apply to wood skids. Wood skids were typically repaired and recycled and not disposed of at the South Dayton Dump. The only exception would be wood skids which were broken beyond repair and were incinerated. (Depo. of Grillot, Vol. II, TR. 33)

In any event, Mr. Grillot could not, based on his own personal knowledge, identify L.M. Berry as the source of delivery of any used phone books to the Site, whether ultimately recycled

offsite or disposed of at the Site. When asked on direct how he knew it was L.M. Berry that delivered the phone books to the Site, Mr. Grillot replied that his source was just "talk" -- clearly conjecture and inadmissible hearsay under Federal Evidence Rule 802. Objection to the hearsay and a motion to strike the testimony were asserted on the record. The exchange was:

Q. (By Mr. Romine, Plaintiff's Counsel). How do you know it was L.M. Berry that brought the phone books?

A. (Mr. Grillot). Well, through talk, you know, but --

Mr. Collier (Defendant L.M. Berry's Counsel): Objection. Move to strike.

The Witness: -- then their operation wasn't very far away. It was on, I think, Kettering Boulevard so we knew where the building was.

Mr. Collier: Orla Collier on behalf of L.M. Berry. Object to the question. Move to strike the answer.

(Depo. of Grillot, Vol. I, TR. 99-100).

On further direct, Mr. Grillot testified again over objection and motion to strike:

Q. (By Mr. Romine) Okay. But you had some kind of understanding that these waste phone books were from L.M. Berry?

A. (Mr. Grillot). Right.

Mr. Collier: Object. Move to strike.

By Mr. Romine:

Q. And do you have any specific recollection as to where your understanding came from?

A. (Mr. Grillot) No.

(Depo. of Grillot, Vol. I, TR. 100-101)

On cross-examination, Mr. Grillot testified that he only personally observed phone books from any source delivered to the South Dayton Dump in 1965, 1966 and maybe in 1967. (Depo. of Grillot, Vol. II, TR. 19). The delivery trucks had no markings to identify L.M. Berry as the source and neither did the phone books. (Depo. of Grillot, Vol. II, TR. 22). Mr. Grillot testified:

Q. (By Mr. Collier). And your testimony was these shipments came in by truck, is that correct?

A. (Mr. Grillot) Correct.

Q. All right. But the trucks had no markings?

A. Correct.

Q. Didn't identify L.M. Berry in any respect?

A. No.

Q. All right. The -- the phone books, starting with the white pages, was there any identification of L.M. Berry on these phone books, to your personal recollection?

A. I'm not sure.

Q. What about the Yellow Pages, same question?

A. Same -- same thing.

Q. Okay. All you know is there were phone books shipped to the facility?

A. Correct.

(Depo. of Grillot, Vol. II E, TR. 22)

Prior to Mr. Grillot's deposition on December 16 and 17, 2013, the Hobart Plaintiffs confirmed that there were no documents available to support Plaintiffs' allegation that Defendant L.M. Berry disposed, or arranged for the disposal of wastes at the Site at any time. Mr. Grillot testified consistently that he had reviewed no documents, including dump receipts, logs, deposit

tickets, invoices or other shipping documents, to establish that L.M. Berry was the source of the phone books. He testified:

Q. (By Mr. Collier) You had no documents whatsoever to establish that L.M. Berry was the source of those phone books?

A. (Mr. Grillot) Correct.

(Depo. of Grillot, Vol. II, TR. 30-31).

Mr. Grillot also could not identify any wood skids that originated from L.M. Berry that were ultimately incinerated and disposed of at the Site as opposed to recycled.

Q. (By Mr. Collier) And there's no way today you can identify any skids that were broken and incinerated from L.M. Berry?

A. (Mr. Grillot) No.

(Depo. of Grillot, Vol. II, TR. 33).

In short, there are absolutely no documents or other competent, testimonial evidence to support any assertion that L.M. Berry disposed, or arranged for the disposal of, any wastes, let alone "hazardous substances", at the Site at any time.

tsh

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * *

HOBART CORPORATION,

et al.,

Plaintiffs,

CASE NO. 3:13-cv-115

vs.

VOLUME I

THE DAYTON POWER AND LIGHT

EXCERPT

COMPANY, et al.,

Defendants.

* * *

Deposition of EDWARD GRILLOT, Witness
herein, called by the Plaintiffs for direct
examination pursuant to the Rules of Civil
Procedure, taken before me, Barbara A. Nikolai, a
Notary Public in and for the State of Ohio, at
Sebaly, Shillito + Dyer, 1900 Kettering Tower,
40 North Main Street, 13th Floor Conference Room,
Dayton, Ohio, on Monday, December 16th, 2013, at
9:22 o'clock a.m.

* * *

09:24:27 1 Devault for Pharmacia, LLC.

09:24:27 2 MR. COOK: Jerome Cook, McDonald
09:24:32 3 Hopkins, Day International.

09:24:35 4 MR. WICK: Bill Wick, Wactor & Wick,
09:24:37 5 for Bridgestone Americas Tire Operations, LLC.

09:24:44 6 MR. VAN KLEY: Jack Van Kley
09:24:45 7 representing Cargill, Hewitt Soap Works and
09:25:05 8 Newmark. Sorry.

09:25:05 9 MR. HARRIS: Glenn Harris, Ballard
09:25:10 10 Spahr, representing GlaxoSmithKline.

09:25:10 11 MR. LUXTON: Steve Luxton for
09:25:10 12 PepsiCo.

09:25:40 13 MR. ROMINE: Anyone else on the
09:25:40 14 phone? Could you go off the record for a moment?

09:26:00 15 THE COURT REPORTER: Sure.

09:26:00 16 (Thereupon, an off-the-record
09:26:05 17 discussion was had.)

09:26:05 18 BY MR. ROMINE:

09:26:07 19 Q. Good morning, Mr. Grillot.

09:26:08 20 A. Good morning.

09:26:09 21 Q. Do you remember last year when you
09:26:12 22 came to Dayton and Larry Silver asked you
09:26:15 23 questions about the South Dayton Dump?

09:26:18 24 A. Um-hum.

09:26:18 25 Q. Yes?

10:57:44 1 collect metal?

10:57:50 2 MR. HARBECK: Object to the form.

10:57:51 3 THE WITNESS: Yes.

10:57:51 4 BY MR. ROMINE:

10:57:51 5 Q. When was that?

10:57:54 6 A. Pardon me?

10:57:55 7 Q. When was that? When did Larry

10:57:58 8 Brandon put the Dumpster in for the metal?

10:58:00 9 MR. HARBECK: Same objection.

10:58:01 10 THE WITNESS: Well, their operation,

10:58:03 11 I think, started in the '60s, so I -- I think it

10:58:09 12 was mid '60s.

10:58:11 13 BY MR. ROMINE:

10:58:12 14 Q. Okay. How you doing?

10:58:16 15 A. Good.

10:58:17 16 Q. Okay. Moving on now.

10:58:23 17 Kimberly-Clark Corporation, do you remember

10:58:24 18 that name?

10:58:29 19 A. I know it, but I don't know how
10:58:33 20 right now.

10:58:33 21 Q. Okay. Do you remember, was

10:58:40 22 Kimberly-Clark a customer of the South Dayton

10:58:45 23 Dump?

10:58:49 24 A. Honestly at this point, no.

10:58:53 25 Q. Moving on then. L.M. Berry and

10:58:58 1 Company --

10:58:58 2 A. Yeah.

10:58:59 3 Q. -- was -- do you remember the L.M.
10:58:59 4 Berry and Company?

10:59:03 5 A. Yes.

10:59:03 6 Q. And was L.M. Berry a customer of
10:59:03 7 the site?

10:59:07 8 A. Yes.

10:59:07 9 Q. A customer of the dump? Excuse
10:59:09 10 me. And what waste did L.M. Berry bring to the
10:59:09 11 dump?

10:59:13 12 A. Lots of phone books.

10:59:14 13 Q. And how frequently did this
10:59:16 14 happen?

10:59:18 15 A. Mostly in the spring, I remember.
10:59:25 16 March, April, I think.

10:59:26 17 Q. Okay. So this was like an annual
10:59:28 18 occurrence when the new phone books came out?

10:59:30 19 A. Yeah.

10:59:31 20 Q. The old phone books would be
10:59:33 21 disposed of?

10:59:34 22 A. Yeah, and that's where Larry had
10:59:37 23 taken the two old gentlemen and throwed them in
10:59:39 24 that big thing.

10:59:41 25 Q. Okay. So when you're talking

10:59:44 1 about the two old gentlemen, just so I'm
10:59:46 2 remembering this correctly, at some point Larry
10:59:52 3 Brandon started some kind of business that made
10:59:56 4 like insulation out of waste paper?

10:59:58 5 A. Right, Dayton Fiber.

10:59:59 6 Q. Okay. Dayton Fiber. And one of
11:00:02 7 the things that he used was the phone books
11:00:04 8 from L.M. Berry and Company?

11:00:06 9 A. Yes, um-hum.

11:00:07 10 Q. Okay. Was there a time before
11:00:11 11 Dayton Fiber got started when the phone books
11:00:13 12 from L.M. Berry and Company would be disposed
11:00:15 13 of at the site?

11:00:18 14 A. Yes.

11:00:18 15 Q. Okay. And where were they
11:00:20 16 disposed of at the site?

11:00:22 17 A. In the second tier where the
11:00:23 18 burnable --

11:00:25 19 Q. Okay. And -- and so it sounds
11:00:28 20 like they were burned at some point?

11:00:30 21 A. Yeah.

11:00:31 22 Q. Okay. Any waste other than the
11:00:33 23 phone books from L.M. Berry and Company?

11:00:36 24 A. Some skids, but mostly phone
11:00:40 25 books.

11:00:40 1 Q. And the skids were wood?

11:00:42 2 A. Yeah, um-hum.

11:00:43 3 Q. And were those burned in the
11:00:46 4 incinerator?

11:00:47 5 A. Well, Larry had another friend of
11:00:52 6 his, they started what was called Skid Row, and
11:00:58 7 Dad gave them a part of the dump, and there
11:01:01 8 were skids like 42 by 42. If they were in good
11:01:05 9 shape, then they were put to be sent over to
11:01:08 10 Skid Row.

11:01:08 11 And so a lot of places like L.M.
11:01:14 12 Berry, Hewitt Soap, those weren't beat up very
11:01:18 13 bad, so they would be sent over to Skid Row.

11:01:21 14 Q. I remember reading from what you
11:01:23 15 had told Larry the last time, you did mention
11:01:25 16 Skid Row before, so I'm not going to go into
11:01:28 17 that in a whole lot of detail, but focusing now
11:01:30 18 on L.M. Berry, they sent waste phone books,
11:01:36 19 yes, and some skids?

11:01:36 20 A. Yeah.

11:01:37 21 Q. Okay. And some skids were
11:01:40 22 repaired?

11:01:42 23 A. Yes, um-hum.

11:01:42 24 Q. But some skids were not repaired?

11:01:45 25 A. Well, either they were in good

11:01:45 1 shape or they had to be repaired.

11:01:48 2 Q. Oh, okay. I see. So they were
11:01:50 3 either -- they were all used again?

11:01:53 4 A. Well, at the beginning before Skid
11:01:56 5 Row really got going, the bad ones would get
11:02:00 6 thrown in the incinerator, and then he bought
11:02:03 7 equipment, air compressors and some type of
11:02:06 8 gun, and they would take them over there and
11:02:07 9 repair them.

11:02:09 10 Q. So --

11:02:10 11 A. And that was kind of a relief
11:02:12 12 because we didn't have to mess with them, you
11:02:14 13 know, so --

11:02:15 14 Q. I see. So at some point towards
11:02:16 15 the beginning, the -- the skids that couldn't
11:02:19 16 be repaired would be put in the incinerator?

11:02:21 17 A. Yeah.

11:02:22 18 Q. But then at some point, was -- it
11:02:28 19 was Larry would figure out a way to repair
11:02:30 20 them?

11:02:30 21 A. Yeah.

11:02:30 22 Q. With Skid Row?

11:02:32 23 A. (Witness nodding head up and
11:02:32 24 down.)

11:02:32 25 Q. And I'm sorry if I'm repeating

11:02:34 1 myself, but when did Skid Row get started?

11:02:38 2 A. Very late '60s. Probably '69.

11:02:42 3 Q. Okay. Did L.M. Berry have their
11:02:49 4 own truck or were they brought to the dump by
11:02:51 5 somebody else?

11:02:52 6 A. I think they were white trucks,
11:02:57 7 and I think there was a phone book and it
11:03:00 8 said -- I don't think it said L.M. Berry, I
11:03:03 9 can't -- it said something else.

11:03:04 10 Q. Okay. So how do you know --

11:03:09 11 A. I can't remember.

11:03:09 12 Q. -- it was L.M. Berry?

11:03:10 13 A. Pardon me?

11:03:10 14 Q. How do you know it was L.M. Berry
11:03:13 15 that brought the phone books?

11:03:14 16 A. Well, through talk, you know,
11:03:21 17 but --

11:03:22 18 MR. COLLIER: Objection. Move to
11:03:22 19 strike.

11:03:24 20 THE WITNESS: -- then their operation
11:03:24 21 wasn't very far away. It was on, I think,
11:03:26 22 Kettering Boulevard, so we knew where the building
11:03:29 23 was.

11:03:34 24 MR. COLLIER: Orla Collier on behalf
11:03:35 25 of L.M. Berry. Object to the question. Move to

11:03:37 1 strike the answer.

11:03:38 2 BY MR. ROMINE:

11:03:38 3 Q. So you saw phone books come to the
11:03:38 4 site?

11:03:43 5 A. Um-hum.

11:03:43 6 Q. Yes?

11:03:44 7 A. Yes.

11:03:44 8 Q. And the truck had some kind of
11:03:49 9 Yellow Pages or phone book on the truck?

11:03:51 10 A. On the doors, yeah.

11:03:52 11 Q. But it didn't say L.M. Berry or
11:03:55 12 did it?

11:03:55 13 A. I don't remember.

11:03:55 14 Q. Okay. But you had some kind of
11:03:58 15 understanding that these waste phone books were
11:04:01 16 from L.M. Berry?

11:04:01 17 A. Right.

11:04:01 18 MR. COLLIER: Object. Move to
11:04:01 19 strike.

11:04:04 20 BY MR. ROMINE:

11:04:04 21 Q. And do you have any specific
11:04:06 22 recollection as to where your understanding
11:04:07 23 came from?

11:04:07 24 A. No.

11:04:09 25 Q. Do you remember any of the drivers

11:04:14 1 of these trucks?

11:04:15 2 A. No.

11:04:15 3 Q. Okay. All right. We're going to
11:04:22 4 move on now. I'm going to -- are you familiar
11:04:26 5 with a company called Van Dyne-Crotty?

11:04:29 6 A. Yes.

11:04:30 7 Q. Was Van Dyne-Crotty a customer of
11:04:32 8 the South Dayton Dump?

11:04:33 9 A. Yes.

11:04:34 10 Q. And what kind of waste came from
11:04:36 11 the South Dayton Dump from Van Dyne-Crotty?

11:04:38 12 A. Uniforms. Those paper things. A
11:04:47 13 lot of like paper dispensers. Sometime we'd
11:04:51 14 get a case that had either got wet or damaged
11:04:55 15 or something with the paper towels that were
11:04:58 16 in -- inside the big boxes. Janitorial
11:05:05 17 products.

11:05:08 18 Q. And one of the things you
11:05:09 19 mentioned was paper things, and you went like
11:05:12 20 this (indicating). Was that -- were those
11:05:14 21 paper towel dispensers?

11:05:16 22 A. It was cloth, but the others
11:05:17 23 were -- you know, they're like metal and they
11:05:22 24 had the key thing and you'd lift it up and put
11:05:25 25 the paper in them.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

* * *

HOBART CORPORATION,

et al.,

Plaintiffs,

CASE NO. 3:13-cv-115

vs.

VOLUME II

THE DAYTON POWER AND LIGHT

EXCERPT

COMPANY, et al.,

Defendants.

* * *

Deposition of EDWARD GRILLOT, Witness
herein, called by the Plaintiffs for direct
examination pursuant to the Rules of Civil
Procedure, taken before me, Barbara A. Nikolai, a
Notary Public in and for the State of Ohio, at
Sebaly, Shillito + Dyer, 1900 Kettering Tower,
40 North Main Street, 13th Floor Conference Room,
Dayton, Ohio, on Tuesday, December 17th, 2013, at
9:01 o'clock a.m.

* * * APPEARANCES:

On behalf of the Plaintiffs:

Langsam Stevens Silver & Hollaender LLP

By: David E. Romine
and

CROSS-EXAMINATION

10:43:08 2 BY MR. COLLIER:

10:43:08 3 Q. Mr. Grillot, my name is Orla
10:43:08 4 Collier. I'm with the law firm of Benesch,
10:43:13 5 Friedlander, Coplan and Aronoff, and I
10:43:14 6 represent L.M. Berry Company, and my
10:43:16 7 questioning will be limited to that company.

10:43:17 8 A. Okay. Thank you.

10:43:20 9 Q. And in the course of my
10:43:22 10 questioning, I would like to elicit your direct
10:43:25 11 knowledge. I don't want an -- an understanding
10:43:28 12 maybe what -- from what somebody told you. I
10:43:31 13 want your own testimony from your own personal
10:43:34 14 knowledge, things that you observed.

10:43:35 15 A. Okay.

10:43:35 16 Q. And if you need to go beyond that,
10:43:37 17 then we'll deal with that as the questioning
10:43:39 18 progresses, but the thrust of my questioning is
10:43:41 19 solely on your personal knowledge and
10:43:43 20 involvement with this landfill --

10:43:44 21 A. Correct.

10:43:44 22 Q. -- okay? All right.

10:43:47 23 MR. COLLIER: And for purposes of the
10:43:49 24 record, I'm taking this -- I'm doing this
10:43:51 25 examination as if on cross-examination.

10:43:51 1 BY MR. COLLIER:

10:44:01 2 Q. I want to start with your work
10:44:06 3 experience, and as I understand it, while you
10:44:12 4 did some part-time work at the landfill, did
10:44:15 5 you ever become a full-time employee?

10:44:19 6 A. I -- I was led to believe I was a
10:44:21 7 full-time employee.

10:44:23 8 Q. Over what period of time?

10:44:28 9 A. From '60 to '69.

10:44:34 10 Q. 1960 to 1969?

10:44:36 11 A. Right.

10:44:36 12 Q. Now, 1960, as you've testified
10:44:39 13 before in this deposition, you were in school,
10:44:43 14 you were eight years old?

10:44:44 15 A. Right.

10:44:45 16 Q. Well, how old were you then, eight
10:44:50 17 years old?

10:44:51 18 A. Eight, something like that.

10:44:52 19 Q. Okay. And did you consider
10:44:57 20 yourself a full-time employee when you were
10:44:58 21 eight years old?

10:45:00 22 A. Made a dollar a day, yep.

10:45:01 23 Q. Okay. You were also going to
10:45:04 24 school, I hope, full-time?

10:45:06 25 A. When I couldn't get out of it,

10:45:10 1 yeah.

10:45:10 2 Q. And I believe in terms of
10:45:12 3 chronology, you had quit school when you were
10:45:15 4 16?

10:45:15 5 A. Correct.

10:45:16 6 Q. And you were in the 9th grade at
10:45:16 7 that time?

10:45:16 8 MR. ROMINE: I'm going to object to
10:45:18 9 this line of questioning on the ground that it
10:45:20 10 rehashes testimony from 2012, which is beyond the
10:45:23 11 scope of Judge Rice's order.

10:45:25 12 THE WITNESS: Correct.

10:45:26 13 BY MR. COLLIER:

10:45:26 14 Q. All right. And were you a
10:45:28 15 full-time student between the ages of eight and
10:45:28 16 16?

10:45:31 17 MR. ROMINE: Same objection.

10:45:36 18 THE WITNESS: Tried to be.

10:45:36 19 BY MR. COLLIER:

10:45:36 20 Q. Okay. Do you know whether the
10:45:41 21 South Dayton Landfill was a corporation or
10:45:44 22 partnership or any kind of legal entity?

10:45:48 23 A. I don't know.

10:45:49 24 Q. You were not an officer of that
10:45:51 25 corporation at any time, were you?

10:45:53 1 A. No.

10:45:54 2 Q. You were not a director of South
10:45:57 3 Dayton Landfill?

10:45:57 4 A. No.

10:45:58 5 Q. You were not in management?

10:46:01 6 A. No.

10:46:01 7 Q. What were your job duties between
10:46:05 8 the time you were eight and the time you were
10:46:07 9 16?

10:46:08 10 MR. ROMINE: Same objection.

10:46:12 11 THE WITNESS: You want a description
10:46:13 12 or just --

10:46:14 13 BY MR. COLLIER:

10:46:14 14 Q. What -- did you have a title or a
10:46:16 15 job description?

10:46:19 16 A. Salvage man.

10:46:20 17 Q. Salvage man.

10:46:22 18 A. (Witness nodding head up and
10:46:22 19 down.)

10:46:22 20 Q. Now, from 1969 to 1970 and during
10:46:28 21 that period, you left the dump, did you not, as
10:46:32 22 far as being a full-time employee?

10:46:33 23 A. Full-time, yes.

10:46:34 24 Q. All right. And you, as you
10:46:37 25 testified previously, went to work for other

10:46:39 1 entities?

10:46:39 2 A. Correct.

10:46:39 3 Q. From time to time, weekends or
10:46:42 4 evenings, you may have been at the dump, but
10:46:45 5 you did not consider yourself a full-time
10:46:49 6 employee?

10:46:49 7 MR. ROMINE: Same objection.

10:46:50 8 THE WITNESS: Correct.

10:46:50 9 BY MR. COLLIER:

10:46:53 10 Q. All right. Now, during this
10:46:54 11 period -- and I don't really want to focus on
10:46:56 12 what you've referred to as the '60s and I'm --
10:47:00 13 what I'm going to define is the period from
10:47:04 14 1960 to 1969.

10:47:04 15 A. Okay.

10:47:04 16 Q. All right. In terms of fixing
10:47:06 17 certain events, you testified that an
10:47:10 18 incinerator was installed at the dump in 1969
10:47:12 19 or thereabouts?

10:47:14 20 A. Somewhere abouts (sic), yeah.

10:47:15 21 Q. Okay. And was there any kind of
10:47:18 22 incinerator before that period of time?

10:47:20 23 A. No.

10:47:20 24 Q. All right. But the dump itself
10:47:22 25 had always been a burning dump, isn't that

10:47:25 1 true?

10:47:25 2 A. Correct.

10:47:25 3 Q. That is, any -- anything that
10:47:27 4 could be burned was burned prior to disposal?

10:47:30 5 A. Correct.

10:47:30 6 Q. All right. And at this site,
10:47:35 7 there were other operations, recycling
10:47:37 8 operations, weren't there?

10:47:39 9 A. Correct.

10:47:39 10 Q. So some material would be recycled
10:47:42 11 and never dumped at the site, isn't that true?

10:47:44 12 MR. ROMINE: Same objection.

10:47:46 13 THE WITNESS: We would have to be
10:47:47 14 more specific on --

10:47:48 15 BY MR. COLLIER:

10:47:48 16 Q. Well, for -- you mentioned
10:47:50 17 predominantly skids were recycled and never
10:47:53 18 disposed of at the site.

10:47:54 19 A. But what I'm saying is, it was
10:47:55 20 dumped, but after it was dumped, then it was --

10:47:55 21 Q. Okay.

10:47:59 22 A. -- then it was separated.

10:48:00 23 Q. Okay. And one thing I want to
10:48:02 24 focus on is the difference between transport to
10:48:04 25 the site and actual disposal in the landfill.

10:48:07 1 I want to be clear about that, okay?

10:48:09 2 A. Right.

10:48:09 3 Q. Okay. But there was some
10:48:12 4 materials that were actually transported to the
10:48:13 5 site that were never disposed of at the
10:48:16 6 landfill?

10:48:17 7 A. Correct.

10:48:17 8 Q. Okay. Now, you mentioned skids
10:48:23 9 and papers being a couple of examples of that,
10:48:23 10 correct?

10:48:27 11 MR. ROMINE: Same objection.

10:48:29 12 THE WITNESS: Speaking of L.M. Berry
10:48:31 13 or are we speaking in general?

10:48:31 14 BY MR. COLLIER:

10:48:31 15 Q. We're speaking generally at this
10:48:33 16 point.

10:48:33 17 MR. ROMINE: Same objection.

10:48:34 18 THE WITNESS: Yes.

10:48:34 19 BY MR. COLLIER:

10:48:38 20 Q. All right. Now, I'd like to ask
10:48:39 21 you about where you lived during this period of
10:48:42 22 time. Did you live in the Dayton area?

10:48:44 23 A. Yes, I did.

10:48:45 24 Q. Between 1960 and 1969?

10:48:47 25 A. Correct.

10:48:47 1 Q. At what point did you leave the
10:48:49 2 Dayton area?

10:48:51 3 A. I didn't leave Dayton till '04. I
10:48:59 4 think '04 or '05.

10:48:59 5 Q. All right. At one point in time,
10:49:02 6 the South Dayton Dump ceased acceptance of
10:49:05 7 waste, isn't that correct?

10:49:07 8 A. To my knowledge.

10:49:08 9 Q. All right. And do you know when
10:49:09 10 that was?

10:49:10 11 MR. ROMINE: Same objection.

10:49:11 12 THE WITNESS: No.

10:49:12 13 BY MR. COLLIER:

10:49:13 14 Q. Was the South Dayton Dump ever a
10:49:15 15 licensed facility, to your knowledge?

10:49:18 16 A. I don't know.

10:49:18 17 Q. Don't know if it was licensed as a
10:49:21 18 solid waste facility?

10:49:22 19 MR. ROMINE: Asked and answered.

10:49:23 20 THE WITNESS: I don't know.

10:49:24 21 BY MR. COLLIER:

10:49:24 22 Q. Or a --

10:49:25 23 A. I don't know.

10:49:26 24 Q. Was it licensed as a hazardous
10:49:28 25 waste facility?

10:49:30 1 MR. ROMINE: Asked and answered.

10:49:30 2 THE WITNESS: I don't know.

10:49:30 3 BY MR. COLLIER:

10:49:30 4 Q. Was it licensed in any respect as
10:49:32 5 a recycling facility?

10:49:34 6 A. I don't know.

10:49:34 7 Q. Okay. In your deposition earlier
10:49:50 8 in this round, I think it was yesterday, you
10:49:54 9 did talk about L.M. Berry Company, did you not?

10:49:56 10 A. I did.

10:49:57 11 Q. All right. And you talked about
10:50:01 12 old phone books, remember that testimony?

10:50:03 13 A. Yes, sir.

10:50:04 14 Q. All right. I want to focus now
10:50:07 15 just on the phone books and not the source of
10:50:11 16 who may have transported the phone books.

10:50:13 17 A. Okay.

10:50:13 18 Q. All right. The old phone books,
10:50:18 19 do you know on how many occasions you
10:50:20 20 personally observed phone books being
10:50:22 21 transported to the facility?

10:50:26 22 A. Within a year to ten -- nine,
10:50:31 23 ten years of my -- what we're speaking of or
10:50:34 24 what?

10:50:34 25 Q. Whenever you recall, the 1960 or

10:50:39 1 1969 or periodically thereafter.

10:50:41 2 A. I forgot the question.

10:50:42 3 Q. Can you tell me the dates of

10:50:46 4 transport of phone books to the facility?

10:50:48 5 A. The dates?

10:50:49 6 Q. Yeah.

10:50:50 7 A. I'll stick with the '60s to '69.

10:50:54 8 Q. All right. '60 to '69?

10:50:57 9 A. Yeah.

10:50:57 10 Q. All right. And you personally

10:50:58 11 observed these transport of phone books?

10:51:05 12 A. Some of the time.

10:51:06 13 Q. Some of the time?

10:51:07 14 A. (Nodding head up and down.)

10:51:07 15 Q. Can you identify what dates of

10:51:10 16 shipment you actually observed phone books

10:51:12 17 being transported to the facility?

10:51:17 18 A. '65, '66, maybe '67.

10:51:19 19 Q. 1965, 1966 and 1967?

10:51:24 20 A. Right.

10:51:24 21 Q. And you testified in your

10:51:27 22 deposition here that you thought those

10:51:29 23 shipments occurred in March or April?

10:51:33 24 A. Somewhere maybe the beginning of

10:51:35 25 summer, but I thought it was springtime, but,

10:51:37 1 you know.

10:51:38 2 Q. Well, now, March or April, you
10:51:41 3 thought it was in the springtime?

10:51:43 4 A. Right.

10:51:43 5 Q. But you can't be any more
10:51:48 6 definitive?

10:51:48 7 A. No.

10:51:48 8 Q. All right. Isn't it true in your
10:51:52 9 deposition in 2012, you thought those shipments
10:51:55 10 occurred in January or February?

10:51:57 11 A. At this -- without dwelling on it
10:52:01 12 more because of previous knowledge of the phone
10:52:09 13 books, I haven't had a chance to make those
10:52:17 14 decisions at this point.

10:52:18 15 Q. So you can't say whether these
10:52:20 16 shipments in the period of time you described
10:52:22 17 were in January and February or March or April?

10:52:27 18 A. I can't at this point.

10:52:29 19 Q. All right. Now, these phone
10:52:33 20 books, were they White Pages or Yellow Pages or
10:52:36 21 some other form of phone book?

10:52:39 22 A. I think at that particular time
10:52:48 23 there was a White Pages, and then the -- the
10:52:51 24 Yellow Pages.

10:52:53 25 Q. Did these come in separate

10:52:56 1 shipments?

10:52:56 2 A. I don't remember.

10:52:59 3 Q. Can you -- and we'll start with
10:53:01 4 the White Pages. Can you identify the city for
10:53:05 5 which these White Pages would have been
10:53:07 6 published?

10:53:12 7 A. The surrounding area of Dayton.

10:53:15 8 Q. Can you be more specific? Do you
10:53:18 9 personally recollect any city for which these
10:53:21 10 White Pages referred?

10:53:22 11 A. There's a list of them. I mean,
10:53:25 12 do you want me to mention all of them?

10:53:26 13 Q. No. I'm asking you, as you
10:53:27 14 personally observed these shipments, what
10:53:31 15 cities were the Whites Page directories for?

10:53:34 16 A. Dayton.

10:53:35 17 Q. Dayton?

10:53:35 18 A. Yeah.

10:53:36 19 Q. Okay. Anything else? Any other
10:53:39 20 city?

10:53:40 21 A. No.

10:53:41 22 Q. And you're sure these White Pages
10:53:44 23 were from the City of Dayton?

10:53:46 24 A. Pretty sure.

10:53:47 25 Q. And were these shipments on

10:53:54 1 pallets?

10:53:54 2 A. No.

10:53:55 3 Q. And your testimony was these
10:54:03 4 shipments came in by truck, is that correct?

10:54:05 5 A. Correct.

10:54:06 6 Q. All right. But the trucks had no
10:54:08 7 markings?

10:54:09 8 A. Correct.

10:54:10 9 Q. Didn't identify L.M. Berry in any
10:54:13 10 respect?

10:54:13 11 A. No.

10:54:13 12 Q. All right. The -- the phone
10:54:18 13 books, starting with the White Pages, was there
10:54:20 14 any identification of L.M. Berry on these phone
10:54:23 15 books, to your personal recollection?

10:54:26 16 A. I'm not sure.

10:54:27 17 Q. What about the Yellow Pages, same
10:54:32 18 question?

10:54:32 19 A. Same -- same thing.

10:54:33 20 Q. Okay. All you know is there were
10:54:36 21 phone books shipped to the facility?

10:54:39 22 A. Correct.

10:54:40 23 Q. Now, at the time of these
10:54:52 24 shipments -- I think you said it was 1965 to
10:54:55 25 1968? 1965, '66 and '67?

10:55:01 1 A. Correct.

10:55:02 2 Q. Three shipments?

10:55:04 3 A. That I remember quite well, yes.

10:55:07 4 Q. Yes. Your -- again, your personal

10:55:09 5 knowledge.

10:55:09 6 A. Yes.

10:55:09 7 Q. Okay. At that time, you would

10:55:14 8 have been how old in 1965?

10:55:17 9 A. Let's see. 13, I think.

10:55:20 10 Q. 13?

10:55:21 11 A. 13, I think.

10:55:22 12 Q. 13. 14 in 1966 and 15 in 1967?

10:55:26 13 A. Yes.

10:55:27 14 Q. And your response was you were not

10:55:28 15 a full-time employee during that period or were

10:55:34 16 you?

10:55:34 17 MR. ROMINE: Asked and answered.

10:55:35 18 BY MR. COLLIER:

10:55:35 19 Q. You didn't quit school until 1968.

10:55:38 20 A. During the summertime. Full-time

10:55:40 21 during off school periods.

10:55:43 22 Q. Now, the actual operations were

10:55:46 23 under the supervision of Kenneth Grillot, isn't

10:55:50 24 that correct?

10:55:50 25 A. Correct.

10:55:52 1 Q. And the actual handling of the
10:55:53 2 accounting and invoicing was under Alcine's
10:55:56 3 responsibility?

10:55:57 4 A. Correct.

10:55:57 5 Q. And, again, you had no defined
10:55:59 6 duties with respect to either accounting or
10:56:02 7 processing and operations, you were in salvage?

10:56:05 8 A. Correct. Well, I did mention I
10:56:09 9 stapled these tickets -- these things here
10:56:13 10 together (indicating).

10:56:14 11 Q. Now, I'm going to focus on this
10:56:31 12 period, 1965 to 1967, which you can recall
10:56:36 13 shipments of phone books having been made. The
10:56:37 14 incinerator was not in operation during that
10:56:39 15 period of time.

10:56:43 16 A. Yes.

10:56:44 17 Q. That's correct?

10:56:45 18 A. Correct.

10:56:46 19 Q. All right. But there was still
10:56:48 20 burning at the facility?

10:56:50 21 A. Correct.

10:56:50 22 Q. Did you have -- did you personally
10:56:54 23 observe what happened to these annual shipments
10:56:56 24 in '65 through '67? Were the phone books
10:56:56 25 burnt?

10:57:01 1 A. No, no. The earlier years, yes,
10:57:06 2 but after I spoke about the two gentlemen that
10:57:11 3 had the trash truck that threw them in for Bob
10:57:18 4 Aldridge, no.

10:57:19 5 Q. But, again, we want to focus on
10:57:23 6 the period of '65 through '67. We've
10:57:24 7 established the incinerator was not in
10:57:25 8 operation, but there was still burning at the
10:57:28 9 facility.

10:57:28 10 A. Yes.

10:57:28 11 Q. All right. The phone books
10:57:31 12 shipped between '65 and '67, did they go into
10:57:34 13 the burning pit?

10:57:35 14 A. No.

10:57:36 15 Q. Where did they go?

10:57:38 16 A. It depends on what happened to
10:57:42 17 them during the time they were on the dump. If
10:57:45 18 they were left out and got wet, then they were
10:57:47 19 sent down to the third pier to be --

10:57:48 20 Q. Again, this is your personal
10:57:50 21 recollection?

10:57:50 22 A. Yes. They were sent down to the
10:57:53 23 third pier to be buried. If they were still
10:57:55 24 dry and was able to be shredded, they were put
10:57:58 25 on the garbage -- or the dump truck or they

10:58:05 1 call them trash truck.

10:58:08 2 Q. Trash truck?

10:58:08 3 A. You know, like one you see that
10:58:08 4 goes around the neighborhood that they put the
10:58:14 5 garbage in and then it goes down and pushes it
10:58:15 6 up into the thing.

10:58:16 7 Q. All right. Well, let me break it
10:58:17 8 down a little bit more.

10:58:18 9 A. Okay.

10:58:19 10 Q. Again, this period '65 through
10:58:22 11 '67, phone books at the site, were they
10:58:28 12 shredded?

10:58:28 13 A. Not there, no. No.

10:58:30 14 Q. Not at the site?

10:58:31 15 A. No.

10:58:31 16 Q. Did they leave the site?

10:58:33 17 A. Yes, they did.

10:58:34 18 Q. Where did they go?

10:58:36 19 A. I don't know.

10:58:38 20 Q. They were -- were they recycled?

10:58:41 21 MR. COUGHLIN: Objection.

10:58:43 22 THE WITNESS: I don't know.

10:58:43 23 BY MR. COLLIER:

10:58:44 24 Q. But they -- the phone books from
10:58:49 25 '65 to '67 that were at the site, were not

10:58:52 1 disposed of at the site?

10:58:52 2 MR. ROMINE: Asked and answered.

10:58:53 3 Mischaracterizes his testimony.

10:58:53 4 THE WITNESS: Then, again, if they --

10:58:53 5 BY MR. COLLIER:

10:58:57 6 Q. Can you answer that question?

10:58:59 7 A. -- were wet --

10:58:59 8 MR. ROMINE: Object.

10:59:01 9 THE WITNESS: Yes. I'm sorry. Yes.

10:59:02 10 BY MR. COLLIER:

10:59:02 11 Q. Yes, they were taken off the site?

10:59:05 12 MR. ROMINE: Same objection.

10:59:06 13 THE WITNESS: No.

10:59:07 14 BY MR. COLLIER:

10:59:08 15 Q. All right. Were some of them
10:59:11 16 taken offsite?

10:59:12 17 A. Yes.

10:59:12 18 Q. And where did they go?

10:59:16 19 A. Then, again -- I'm trying to --
10:59:21 20 you know, I --

10:59:23 21 Q. And this is your personal
10:59:24 22 recollection. If you don't recall --

10:59:25 23 MR. ROMINE: Asked and answered.

10:59:27 24 THE WITNESS: No, I recall, but I'm
10:59:27 25 trying to, you know --

10:59:27 1 BY MR. COLLIER:

10:59:28 2 Q. Then answer the question.

10:59:30 3 A. Vague, but, yes -- but yet
10:59:38 4 informative, they went to Larry Brandon's
10:59:40 5 Dayton Fiber, I'm almost sure, but to be
10:59:46 6 totally accurate, I don't know.

10:59:49 7 Q. Okay. Do you think it more likely
10:59:58 8 than not that they were taken to Larry
11:00:01 9 Brandon's facility?

11:00:01 10 A. Correct.

11:00:02 11 Q. Okay. And that is whether they
11:00:05 12 were wet or not?

11:00:08 13 A. Dry.

11:00:09 14 Q. Dry?

11:00:10 15 A. (Nodding head up and down.)

11:00:10 16 Q. If they were -- if the phone books
11:00:12 17 during this period, '65 to '67, were dry, they
11:00:16 18 were shredded and then taken to Larry Brandon's
11:00:19 19 recycling facility?

11:00:20 20 A. No.

11:00:20 21 Q. Were they shredded?

11:00:23 22 A. Yes.

11:00:23 23 Q. And then what happened to them?

11:00:26 24 A. They were processed into
11:00:28 25 insulation.

11:00:29 1 Q. At Larry's facility?

11:00:31 2 A. Correct.

11:00:31 3 Q. Okay. And was Larry's facility at
11:00:35 4 the site of the South Dayton Dump or somewhere
11:00:37 5 else?

11:00:37 6 A. Somewhere else.

11:00:37 7 Q. Okay. So they were taken offsite?

11:00:40 8 A. Correct.

11:00:40 9 Q. Okay. And would that be the
11:00:43 10 routine then, if phone books were dry and
11:00:47 11 salvageable, they were taken offsite for
11:00:50 12 recycling?

11:00:50 13 A. Correct.

11:00:51 14 Q. Now, if they weren't taken offsite
11:00:58 15 to Larry's facility, what, if anything, would
11:01:02 16 happen to those phone books during the period
11:01:02 17 of '65 to '67?

11:01:06 18 A. Taken down to the third pier and
11:01:08 19 buried.

11:01:09 20 Q. Okay. And did you personally
11:01:13 21 observe phone books being buried in the third
11:01:16 22 tier?

11:01:16 23 A. Yes.

11:01:16 24 Q. And they were never burned onsite?

11:01:23 25 A. No.

11:01:25 1 Q. And after 1969, when the
11:01:33 2 incinerator was in place, and, again, based on
11:01:38 3 your personal knowledge, were the phone books
11:01:41 4 incinerated?

11:01:44 5 A. No. As I indicated yesterday and
11:01:48 6 possibly this morning, nothing could go but
11:01:50 7 wood.

11:01:50 8 Q. All right. After 1969 when the
11:01:53 9 Dayton Fiber facility was opened by Larry
11:01:56 10 Brandon, phone books were routinely taken to
11:01:58 11 that facility?

11:02:01 12 A. Some of them..

11:02:03 13 Q. Well, again, question, some of
11:02:06 14 them were and some of them weren't?

11:02:08 15 A. Correct.

11:02:09 16 Q. All right. And what would -- what
11:02:12 17 would be the circumstances defining where they
11:02:12 18 went?

11:02:16 19 A. Whether they were wet or not.

11:02:17 20 Q. Whether they were wet. Okay.
11:02:25 21 Now, for purposes of your testimony in 2012 and
11:02:28 22 for purposes of your deposition yesterday and
11:02:32 23 today, you were provided no documents with
11:02:37 24 regard to the source of these phone books, were
11:02:39 25 you?

11:02:39 1 A. No.

11:02:40 2 Q. You had no dump receipts to
11:02:42 3 review?

11:02:43 4 A. No.

11:02:44 5 Q. You had no logs?

11:02:46 6 A. No.

11:02:46 7 Q. No deposit tickets?

11:02:48 8 A. No.

11:02:49 9 Q. No invoices?

11:02:50 10 A. No.

11:02:51 11 Q. None of those that would indicate
11:02:52 12 the source as being L.M. Berry?

11:02:54 13 A. No.

11:02:54 14 Q. You had no other shipping
11:02:57 15 documents?

11:02:57 16 A. No.

11:02:57 17 Q. You had no waste profile sheets?

11:03:01 18 A. No.

11:03:01 19 Q. You had no documents whatsoever to
11:03:06 20 establish that L.M. Berry was the source of
11:03:07 21 those phone books?

11:03:09 22 A. Correct.

11:03:10 23 Q. All right. And you had no contact
11:03:20 24 at L.M. Berry that you personally dealt with?

11:03:22 25 A. No.

11:03:23 1 Q. You did no billing to L.M. Berry?

11:03:25 2 A. No.

11:03:26 3 Q. In terms of the volume that
11:03:31 4 actually was disposed of in the landfill of
11:03:35 5 these phone books, there's no way you can
11:03:38 6 determine what the volume of those phone books
11:03:41 7 was?

11:03:43 8 A. I don't understand the question.

11:03:44 9 Q. There's no -- you have no
11:03:46 10 documentation to establish what the volume of
11:03:48 11 those phone books were --

11:03:50 12 A. No.

11:03:50 13 Q. -- during the period from '65 to
11:03:53 14 '67, or what the weight would have been?

11:03:56 15 A. No.

11:03:57 16 Q. When you say the old phone books
11:04:03 17 were disposed of at the site that were wet, was
11:04:06 18 there a particular tier that they were disposed
11:04:09 19 of?

11:04:09 20 A. Right, the third tier.

11:04:10 21 Q. The third tier?

11:04:11 22 A. Right.

11:04:12 23 Q. Okay. If I can have a moment.

11:04:25 24 Oh, is the South Dixie Highway also the
11:04:32 25 Kettering Road?

11:04:33 1 A. Kettering Boulevard, yeah.

11:04:44 2 MR. COLLIER: Okay. Just give me a
11:04:45 3 moment, I think I'm about done. I'm going to take
11:05:12 4 a break, and just give me a minute.

11:05:19 5 (Pause in proceedings.)

11:05:21 6 BY MR. COLLIER:

11:16:04 7 Q. Real quick -- we can go back on
11:16:07 8 the record -- I did just have one area -- small
11:16:09 9 area of questions, and that skids, you
11:16:12 10 mentioned skids and L.M. Berry. Skids were
11:16:14 11 routinely recycled, repaired and taken offsite?

11:16:20 12 A. Other than broken ones, they were
11:16:20 13 incinerated.

11:16:23 14 Q. And there's no way today you can
11:16:25 15 identify any skids that were broken and
11:16:28 16 incinerated from L.M. Berry?

11:16:29 17 A. No.

11:16:30 18 MR. COLLIER: That's all the
11:16:32 19 questions I have. Thank you.

11:16:32 20 THE WITNESS: Thank you.

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1 STATE OF OHIO)

2 COUNTY OF MONTGOMERY) SS: CERTIFICATE

3 I, Barbara A. Nikolai, a Notary
4 Public within and for the State of Ohio, duly
5 commissioned and qualified,

6 DO HEREBY CERTIFY that the
7 above-named EDWARD GRILLOT, was by me first duly
8 sworn to testify the truth, the whole truth
9 and nothing but the truth.

10 Said testimony was reduced to
11 writing by me stenographically in the presence
12 of the witness and thereafter reduced to
13 typewriting.

14 I FURTHER CERTIFY that I am not a
15 relative or Attorney of either party, in any
16 manner interested in the event of this action,
17 nor am I, or the court reporting firm with which
18 I am affiliated, under a contract as defined in
19 Civil Rule 28(D).

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25

IN WITNESS WHEREOF, I have hereunto set
my hand and seal of office at Dayton, Ohio, on
this 18th day of March, 2014.

BARBARA A. NIKOLAI
NOTARY PUBLIC, STATE OF OHIO
My commission expires 12-13-2018